

2023 Weekly Legislative Report #16

Please Contact Your Representatives about the Housing Bill

Contact your representatives this weekend and early next week and urge them to support the amendment to the housing bill ([S.100](#)) proposed by the Rural Caucus. **The amendment from the caucus represents the best chance municipalities have to strengthen the bill to encourage greater parity in modernizing both local zoning and statewide zoning under Act 250.** Support of the Rural Caucus amendment to S.100 increases the likelihood that there will be real progress in building out much needed housing statewide. Read more below in Housing Debate Continues.

This week marks our 2nd to last regular Weekly Legislative Report. Make sure to check in next week and then join us for the last regular Advocacy Chat on May 1. We'll be back with the Legislative Wrap - both written and chat version in June.

[Housing Debate Continues](#)

The House Environment and Energy Committee and House General and Housing Committee held a one-hour joint meeting to air questions regarding [S.100](#), the housing bill, on Tuesday. As the bill had already been moved from House General and Housing to House Environment and Energy, there remained some frustration about how legislators' questions would be addressed by the committee in charge. The chair of House Environment and Energy assured attendees that they would take testimony and address the issues raised, and that committee continued to hear testimony through the rest of this week. Indeed, the chair said they would likely continue to do so into next week.

Municipal Testimony

On Thursday, the House Environment and Energy Committee heard from the chair of the South Burlington City Council and that city's planner, the planning director and planning commission member from St. Albans City, the newly elected mayor of Rutland City, and the mayor of Burlington. Additional local officials have asked to testify and have not yet heard back.

Each of the local officials testifying urged the committee to provide flexibility in the language mandating towns to amend their zoning ordinances particularly with respect to

- density and height of residential units particularly in areas served by sewer and water
- parking requirements, and
- dimensional requirements.

Rutland Mayor Doenges described the situation in that city with wastewater capacity and the likelihood that the density requirements in areas served by water and sewer would likely overwhelm parts of the system. Mayor Weinberger highlighted the duplicative, time consuming and expensive review of layering state zoning law (Act 250) over local zoning ordinances in those communities with robust zoning in place. He noted that the ten-unit, five-year, five-mile restriction is a deterrent to private developers that prevents the construction of housing. He urged the committee to adopt language proposed by the Rural Caucus to exempt the construction of four or fewer units from counting toward determining jurisdiction for Act 250 and said that the effect of that change would be substantial not only in rural areas but in Burlington as well.

Amendment and Process

The Rural Caucus proposed an amendment to the Speaker of the House on Tuesday under cover of a letter signed by 33 House members. That amendment includes the same language requested by the VLCT and other entities for (a) recognition of the immediacy of the housing crisis in Vermont and (b) Act 250 relief in addition to changes in local land use regulations.

We aren't done with this yet, even though the end of session looms closer every day. Once the bill is out of the House Environment and Energy Committee and passed by the House, it will go to a conference committee, which could take several more days. Ostensibly there are

three weeks left in the session (if the May 12 end date is to be believed). That's not much time to iron out all the differences between the two chambers!

Please Contact Your Representatives

Contact your representatives this weekend and early next week and urge them to support the amendment proposed by the Rural Caucus. The amendment from the caucus represents the best chance municipalities have to strengthen the bill to encourage greater parity in modernizing both local zoning and statewide zoning under Act 250. Support of the Rural Caucus amendment to S.100 increases the likelihood that there will be real progress in building out much needed housing statewide.

Resources for this article:

- [Rural Caucus letter to Speaker Krowinski](#)
- [Rural Caucus amendment](#)

[Homeless Bill of Rights](#)

This week the House General and Housing Committee again took up [H.132](#), the Homeless bill of Rights. The bill has been introduced in several legislative sessions, most recently in 2020. As introduced, the bill would establish a “Homeless Bill of Rights” in Title 1, Chapter 5 Common Law and General Rights, which establishes law regarding eligibility to hold office, public records, and open meeting. We are not aware of another “bill of rights” that is specific to a particular group of people.

As we have discussed all session, the housing crisis is enormous and unavoidable in almost any conversation in Vermont, and the burden for those who are homeless is crushing. That includes an estimated 2,200 adults and 620 children living in hotels who may lose even that housing on July 1, according to Sue Minter of Capstone Community Action. There are no places to live. There are, according to Indeed.com on Tuesday, 1,200 open jobs in Vermont in the field of human services, and thus the people to provide support services, protection, and assistance are, in many instances, simply not here.

City and town officials including emergency medical services and law enforcement are left to respond to the many crises that the chaos of homelessness creates. As we are freshly aware, there are vital safety and mental health concerns for all following stabbings at the Montpelier Transit Center and Berlin Hilltop Inn, and the murder of Leah Rosin-Pritchard in Brattleboro.

H.132 would add people who are unhoused to the list of protected groups in the statutes. It would guarantee an individual the right to use and move freely in public places including sidewalks, parks, transportation, and buildings without discrimination on the basis of the individual's housing status. Likewise, it would establish the right to equal treatment by all state and municipal agencies, emergency medical care, registering to vote and voting, and a reasonable expectation of privacy in personal property.

Housing status would be defined as the "actual or perceived status of being homeless, being a homeless individual, or being a homeless person, as defined in 42 U.S.C. § 11302."

The U.S. Code definition is available at <https://www.law.cornell.edu/uscode/text/42/11302>.

If H.132 were enacted, no person could be subject to criminal or civil sanctions for soliciting, sharing, accepting, or offering food, drink, money, or other donations in a public place – activities that are protected by law already – and no law or ordinance would be allowed to adversely impact or penalize an individual based on housing status, provision of supports or services, or engaging in harmless activities. The bill would establish the right to bring action in Superior Court for violations of those rights.

H.132 would add to 9 V.S.A. § 4502, Public Accommodations, the protected status currently provided to persons because of their race, creed, color, national origin, marital status, sex, sexual orientation, or gender identity. In 21 V.S.A. § 495, Unlawful Employment Practice, it would add housing status to the current list of protected classes – race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or a qualified individual with a disability.

"Place of public accommodation" is defined in Title 9 to mean any school, restaurant, store, establishment, or other facility at which services, facilities, goods, privileges, advantages, benefits, or accommodations are offered to the general public.

Creating a “bill of rights” and a separate right to sue based upon housing status would not seem to really address the issue of homelessness or improve the situation, which is due to many societal factors. The attorney general and director of the Human Rights Commission testified that they had not received many complaints based just upon one’s housing status. Several of the terms in the bill, such as “soliciting” and “harmless activities associated with homelessness” require definition. Adding housing status to the list of groups with protected status would clarify for Vermont obligations in housing, places of public accommodation, and employment.

The Public Accommodation statute, 9 V.S.A. § 4502 (h), currently provides that a public accommodation need not provide services and benefits when an individual poses a direct threat to the health or safety of others. It also establishes obligations to conduct individualized assessments that rely on “current medical knowledge or the best available objective evidence to ascertain the nature and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices or procedures will mitigate the risk”. The committee should probably revisit that statute in light of current circumstances. A place of public accommodation is defined in 9 V.S.A. § 4501 (1) to mean any school, restaurant, store, establishment, or other facility at which services, facilities, goods, privileges, advantages, benefits, or accommodations are offered to the public”.

Resources for this article:

- [S.132](#)
- [42 U.S.C. § 11302](#)
- [Sue Minter, Capstone Community Action, Testimony on April 18, 2023](#)

[Reappraisal Considerations](#)

On Thursday, the Senate Government Operations Committee took up [a new strike-all amendment to H.480](#), the reappraisal bill passed by the House. The amendment would eliminate the requirement for the Director of Property Valuation and Review (PVR) to order a reappraisal if a municipality’s education grand list has a Common Level of Appraisal (CLA) that is below 85 percent or above 115 percent.

The bill would require that a municipality conduct a reappraisal every six years unless a longer period of time is approved by the PVR Director. If the PVR Director determines that a

municipality's education grand list has a coefficient of dispersion greater than 20 or that a municipality has not reappraised according to the new six-year schedule, then a reappraisal would be ordered. The six-year reappraisal schedule would take effect July 1, 2026.

The coefficient of dispersion, as explained by PVR, is a measure of equity across assessments in a single municipality's grand list and is a primary indicator of fairness within a municipality. The COD measures the degree to which individual property valuations vary from the median level of appraisal in a municipality.

If the proposed amendment were to pass, in FY24 \$50,000 would be appropriated from the General Fund to the Department of Taxes to contract with a consultant with expertise in statewide reappraisal systems. By December 15, 2023, the Department of Taxes would submit a progress report on the first six months of work on an implementation proposal for creating a statewide system for reappraisals of both municipal and education grand lists administered by PVR. The report would include a preliminary schedule to phase in full reappraisals for each municipality every six years beginning July 1, 2025; a study of existing municipal data metrics to identify properties based on property types and characteristics including use, occupancy or vacancy, square footage; and options for implicit bias training for listers and assessors.

By December 15, 2024, the Department of Taxes would need to submit:

- a detailed implementation proposal for creating a statewide system to conduct reappraisals of both municipal and statewide education grand lists;
- recommendations to distinguish between different types and uses of property and a plan to integrate them into the property taxation system in 2026; and
- recommendations to achieve property valuation and taxation across the state in order to eliminate racial, economic, and other implicit biases and to update training to eliminate such biases.

The required 2024 implementation proposal and report would also include

- recommendations from the Department of Taxes on creation of a statewide reappraisal system as well as proposals for funding and administration;
- list municipalities that, upon passage of the bill, had been ordered to reappraise for the longest period of time, and prioritize their reappraisals;

- create a reappraisal appeal structure taking into account any matters relating to appeals and a recommendation on **narrowing or eliminating the role of the Boards of Civil Authority within the appraisal appeal process**;
- recommendations on streamlining, integrating, and updating state and municipal vendor agreements relating to reappraisals and maintenance of grand lists;
- definitions and data metrics currently gathered by municipal Computer Assisted Mass Appraisal (CAMA) systems and the potential to collect information on the number of residential units, land values versus building values, year of construction, and any other pertinent data;
- distinguish between contiguous parcels for purposes of property valuation and payment of the per-parcel fee;
- incentivizing municipalities to submit grand list parcel map data to the Vermont Center for Geographic Information; and
- incorporating principles of a high-quality tax system into a potential statewide reappraisal system as enumerated by the National Conference of State Legislatures “Tax Policy Handbook for State Legislators”.

Assessment education programs for municipal listers and assessors would include education on racial disparities in property valuation outcomes in the US and ongoing bias reduction training.

Resources for this article:

- [H.480 as passed by the House](#)
- [H.480 as redrafted by the Senate Government Operations Committee](#)

[Senate Finance is Busy](#)

Many more bills than one might imagine go through the Senate Finance and House Ways and Means Committees because the policy decisions included in them might affect the revenues of the state. And if a bill does that, it goes nowhere until it has gone through the revenue-raising committees. Here is a summary of this week’s activities that relate to municipalities.

Income Sensitivity

On Tuesday, calling his community the “canary in the coal mine,” Stowe Town Manager Charles Safford and the town’s appraiser, Tim Morrisey, visited with the Senate Finance Committee about income sensitivity limits for property owners who pay taxes to the education fund. These municipal representatives pointed out that income sensitivity standards have not been changed in years, and as a result people are left with enormous challenges of paying property tax bills that are much higher not because of any improvements but simply because property values have soared beyond what is eligible for income sensitivity and they must now pay the entire escalated property tax bill. Stowe is finalizing a reappraisal, and the combination will result in bills much higher than property owners have had to pay in the past.

Housing prices and values have been soaring in Stowe and increasing drastically in other parts of the state. Close to 150 towns are under orders from the Department of Taxes to conduct reappraisals because their Common Levels of Appraisal (CLA) are below 85 percent of the state-established fair market values for their communities. In fact, in January the Director of Property Valuation and Review testified that the statewide CLA is at 83 percent.

In places like Stowe, other vacation-oriented communities, and towns with almost no housing inventory for sale, the sky is the limit on what people are willing to pay for homes. This is driving values up and making it almost impossible for working Vermonters to find places to live anywhere near their place of work – or to afford to stay in their homes. We have all heard the stories.

Safford testified that according to the Vermont Property Tax Department, the average house site in Stowe is \$312,182. The Stowe Listers’ Office advises that when Stowe’s reappraisal is complete in 2024, the average house site value is anticipated to be above \$700,000. As towns around the state complete their reappraisals, similar sticker shock is going to affect homeowners everywhere.

In 2018, the legislature lowered the caps on homesteads eligible for income sensitivity from \$500,000 to \$400,000. That was before the COVID pandemic and climate change threats caused people in other parts of the country to look to Vermont as the answer to their concerns.

Safford urged the committee to consider directing the Joint Fiscal Office and Department of Taxes to do a study to fully understand the impending impact of increasing values and reappraisals and consider raising income sensitivity caps to keep Vermonters in their homes and in their communities.

248a Process (H. 110)

On Wednesday, the Senate Finance Committee heard further testimony on [H.110](#). This bill, as it passed the House, proposes to extend the sunset on applications under 30 V.S.A. § 248a, the statute that governs the siting of telecommunications facilities, for an additional three years. The committee reviewed an amendment on Friday that would extend the sunset for three years and require a report from the Commissioner of the Department of Public Service and the Public Utility Commission on

- the process of siting telecommunications facilities and
- how to make it easier for municipalities and individuals to participate in the Certificate of public good process at the Public Utility Commission.

Statewide Public Safety Dispatch

The committee took up and passed an amendment addressing S.139. Read all about that amendment in its own article elsewhere in this report.

Anti-Degradation of the Environment

The committee heard from legislative counsel regarding the Indirect Discharge and Anti-Degradation bill, [S.146](#), which the Senate Natural Resources and Energy Committee introduced on April 13. The bill was released by the Rules Committee Tuesday and reported out of the Senate Finance Committee Thursday. It is on the Senate Calendar today (Friday). In an ordinary session, S.146 would not be passed at this late point in the year but rather would remain in the House until next year. That may or may not be the case this year.

Legislative Counsel noted that the Agency of Natural Resources has started rule making for an anti-degradation implementation rule. That rule would be required to ensure that water

quality levels for state waters be maintained and managed to minimize risks to existing and designated uses of state waters. The rule would also clarify how proposed new discharges to state waters will be reviewed and permitted by the agency. This is important as new discharges will be created if new village wastewater systems that have been awarded ARPA grants are in fact constructed ahead of the December 31, 2026 deadline for spending ARPA dollars.

Cancer Presumption and Workers' Compensation

The House Commerce and Economic Committee passed out [S.73](#), a bill that would amend how workers' compensation covers firefighters with certain cancer diagnoses. The bill would amend current law to add breast cancer, reproductive system cancers, and thyroid cancer to the list of cancers covered under workers' compensation coverage for firefighters meeting certain criteria. Under current law, a firefighter who served at least five years in Vermont, who is not a smoker, and is under the age of 65 who is diagnosed with certain cancers receives a presumption under law that the cancer is a result of exposure to conditions in the line of duty.

In addition to adding these cancers to the list of covered diagnoses under this section of law, the bill would mandate a report that studies the use of cancer screenings and the use and costs of personal protective equipment. Specifically, the study would analyze:

- projected costs of conducting cancer screenings for career firefighters on an annual or biennial basis, and for all enrollees in the Vermont Fire Academy Firefighter I certification program;
- projected costs for the state to fund the replacement of personal protective equipment for all firefighters on a rolling basis so all gear is replaced within a 10-year timeframe;
- Potential opportunities for the state to reduce the cost for fire departments to provide cancer screenings and to purchase and replace personal protective equipment; and
- potential impact of amending or repealing the current law's coverage limitations that are based on the firefighter's use of tobacco or being over age 65 .

The report is due back to the legislature January 15, 2024 and will be conducted by the Director of the Division of Fire Safety.

VLCT supports the legislation and is especially encouraged to see the report that is included in the bill. VLCT Risk Management Services submitted [testimony outlining VLCT's general support](#) of the bill.

The bill will be taken up on the House floor early next week.

Resources for this article:

- [S.73 As Passed in House Commerce and Economic Development](#)
- [VLCT Risk Management Services Testimony](#)

[Statewide Public Safety Dispatch Funding Proposed for the FY24 Budget](#)

As VLCT Advocacy staff reported last week, the Senate Finance Committee has focused on trying to keep [S.139](#) alive this session, even though it did not meet crossover. The committee suggested last week that the budget bill, H.494, would be the vehicle to move portions of S.139 forward, particularly as they relate to state funds that were carried forward from FY23 and were intended to invest in regional dispatching entities.

[The proposal](#) from the committee largely follows the roadmap we reported in the Public Safety Dispatching article in [last week's report](#). The proposal charges the E-911 Board with transitioning the state to a public safety communication system that is statewide, reliable, secure, and interoperable. The system must also be equitable, sustainably financed, and universally accessible to all persons throughout the state. The E-911 Board will work in consultation with the Commission of Public Safety, the Secretary of Digital Services, the Commissioner of Public Service, and relevant state and local public safety and governmental stakeholders on this transition. The E-911 Board is authorized to retain a project manager and consultants as well.

Transition Phases

The transition would be divided into phases. The first would be data collection and analysis of the existing system. The second would be the design of a new statewide system, including cost estimates and long-term funding proposals. A preliminary design for a public safety communications system is due by January 15, 2024, and a final design must be submitted to

the legislature by January 15, 2025. The final phase in the process would be implementation of the system – with a goal of full implementation by July 1, 2026. The timeline is very ambitious, but the committee appears comfortable with it provided that it can be adjusted after the first report back to the legislature next year.

As Part of the Budget

The Senate Finance committee did not vote on the amendment because the committee does not have possession of the budget bill. The Senate Appropriations Committee on Thursday afternoon added specific parameters around how the carryforward funds from FY23 will be appropriated in this year's budget. The \$11 million dollars would be appropriated to the E-911 Board. Up to \$500,000 would be available for hiring technical experts and consultants to implement the proposal outlined above. \$10,500,000 would be held in reserve until further approval to expend funds is granted by the legislature. Dispatching agencies that were awarded grants from this \$11 million last year that were later rescinded, will not have a second chance at receiving these funds under this language. Several dispatching agencies that were given preliminary approval to grant awards last fall testified that they would like access to a portion of these funds to help with infrastructure upgrades. The Senate proposal from the Finance and Appropriations committee is making the policy decision to use these funds strategically for phased design and implementation of a statewide emergency communications. The Senate Appropriations Committee will vote on the proposal when it finalizes the budget.

Resources for this article:

- [Senate Appropriations Amendment to H.494](#)
- [Senate Finance Amendment to H.494](#)

[Senate Transportation Committee Passes the Transportation Bill](#)

The Senate Transportation Committee voted out [H.479](#), the big Transportation Bill. After a brief stop in the money committees, it heads to the Senate floor early next week. The biggest change the Senate made was to remove the DMV fees from it. Although the committee removed the DMV fees from H.479, the Senate Appropriation Committee has signaled they were adding the DMV fees to the budget bill, H.494. In response to the Governor stating his

opposition to raising any state fees, the Chair of the Senate Transportation Committee removed the fees from the Transportation bill to lessen the likelihood of a veto of that bill. Governor Scott has already been vocal in his opposition to the direction the budget is heading in the legislature. Including fees in the budget almost guarantees a veto and therefore will require a veto session later in the spring or early summer.

The Senate made several amendments to the House-passed version of the bill, but the amendments are largely not substantive in nature, particularly as they apply to municipalities. In addition to removal of the DMV fees, the Senate Transportation Committee added a grant program to help continue the build-out and enhancement of the Lamoille Valley Rail Trail amenities, and improve the visitor experience. The committee adjusted language related to studying the state's public transportation system and how it is funded. In addition to studying potential nonfederal match funding sources, the committee proposes the state conduct a larger assessment of the statewide public transportation system. The assessment would review other public transportation systems across the country and make recommendations on modifications to the management of Vermont's statewide mobility service design to make it as efficient, robust, and resilient as possible and fully maximize all available federal funding. The remaining changes proposed by the committee relate to slight adjustments to the Electrify Your Fleet Program, the E-Bike Incentive Program, and the Complete Streets Program; however, the changes were minor and depart only slightly from the House proposals.

As VLCT Advocacy staff predicted, the Senate Transportation Committee made no substantive changes to the funding to municipal programs. Both the House and Senate Transportation committees aligned with the Governor's recommended budget for municipal program funding. A review of the funding to municipalities can be found in the [Week 13 Legislative Report](#).

[The Budget and Capital Bills](#)

The Senate Appropriations Committee expects to vote out the budget, H.494, this afternoon (Friday). As we have mentioned, the committee practice is to strip appropriations from other bills going through the Senate so they can make coordinated decisions about funding in the "Big Bill". It is also the practice of that committee that no draft bill is available until the entire document is available after their vote. Thus, we do not have substantive reporting for you today. Readers may peruse the [amendments that have been proposed to the bill](#). A more

complete rendering of items of concern to local officials will be available next week.

The act of the Senate Appropriations Committee voting out the budget bill signals the end of the session. Once that bill is finalized, the gavel will fall to end the session – unless the legislature schedules a veto session to respond to potential gubernatorial vetoes. That is highly likely this year! We will keep you up to date on all these eventualities in the next few weeks.

The Senate Institutions Committee plans to finalize its recommendation for the capital bill, H.493, next week. This [updated spreadsheet of the recommendations](#) was presented this week.

Resources for this article:

- [Amendments proposed for the budget bill, H.494](#)
- [Senate recommendations for the capital bill, H.493](#)

[New Bills of Interest to Municipalities](#)

Number	Summary	Current Location
H.516	Amendments to the charter of the City of Essex Junction	House Government Operations and Military Affairs
H.517	Approving dissolution of Duxbury-Moretown Fire District 1	House Government Operations and Military Affairs
S.147	Would ban smoking outside places of public access and multiunit housing	Senate Health and Welfare

[A New Way to Reach Your Advocates!](#)

VLCT members can now pose questions to us via the new **Municipal Access Portal** at our website, vlct.org. Just log in and use the Ask a Question page, which you can find in several places (e.g., by clicking on Contact at the top of our website or selecting “Ask a

Question” under Programs and Quick Tools in the main menu).

Here are all the steps:

1. Log in at vlct.org/login.
2. Click any [Ask a Question](#) button/link.
3. In the form’s Category drop-down list, select Advocacy.
4. In the Topic drop-down list, select Other.
5. Fill out the rest of the form and press the Submit button in the lower right corner.

You can also direct questions to other VLCT departments by choosing a different Category, such as Legal Inquiry or Federal Funding Assistance. You will soon notice that the Topic options vary based on which category you select. To track questions you have submitted, click the person/user icon at the top of the homepage to open your Member Dashboard, then navigate to the **Contact Us** section at the bottom of the left side grey menu. You can see your history as well as start a new question from that section of the MAP.

[Join Us for the Next Advocacy Chat](#)

Join us on May 1, 2023 for our last regular Advocacy Chat of the session. Then return on June 5th for the Legislative Wrap-Up Chat.

[Register](#)

[Contributors](#)

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